

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

William Graham,

Plaintiff,

v.

Civil No. 06-cv-453-JD

Bruce Cattell, et al.,

Defendants.

DEFENDANTS' PROPOSED DISCOVERY PLAN

Fed. R. Civ. P. 26(f)

DATE/PLACE OF CONFERENCE:

This matter is exempt from the requirement that the parties hold a planning conference and submit an agreed upon discovery plan under Fed. R. Civ. P. 26(f) as a proceeding that is exempt from the initial disclosure requirements under Rule 26(a)(1)(E)(iii) as it is a pro se action by an incarcerated state inmate. However, counsel for Defendants has completed this proposed discovery plan using the standard track and submits it in advance of the preliminary pretrial conference to Plaintiff and the court for consideration.

COUNSEL PRESENT/REPRESENTING:

Defendants: Laura E. B. Lombardi
Assistant Attorney General

Plaintiff: William L. Graham
Pro se

CASE SUMMARY

THEORY OF LIABILITY: Civil Rights claim brought by inmate who claims (1) that a corrections officer used excessive force against him by punching him in the head while he was in handcuffs; (2) that he was denied access to the prison's grievance procedures; and (3) that prison officials retaliated against him by denying him food.

4/30/07
Adopted (as modified)
as the Court's Pretrial
Order. James R. Muirhead

THEORY OF DEFENSE: Denial that Plaintiff's constitutional rights were violated, qualified immunity, failure to exhaust administrative remedies, failure to state a claim upon which relief may be granted.

DAMAGES: The Plaintiff claims he has ongoing pain and migraine headaches as a result of the alleged assault by Defendant Valente.

DEMAND: July 1, 2007

OFFER: August 1, 2007, if any

JURISDICTIONAL QUESTIONS: None.

QUESTIONS OF LAW: See defenses.

TYPE OF TRIAL: Plaintiff has requested jury.

DISCOVERY

TRACK ASSIGNMENT: Standard (12 months)

DISCOVERY NEEDED: Standard discovery including interrogatories and depositions.

MANDATORY DISCLOSURES under Fed. R. Civ. P. 26(a)(1) are not required under Fed. R. Civ. P. 26(a)(1)(E)(iii).

ELECTRONIC INFORMATION DISCLOSURES (Fed. R. Civ. P. 26(f)(3)): This matter is exempt from the requirement that the parties develop a discovery plan concerning the disclosure of electronically stored information as it is a proceeding that is exempt from the initial disclosure requirements under Rule 26(a)(1)(E)(iii).

STIPULATION REGARDING CLAIMS OF PRIVILEGE/PROTECTION OF TRIAL PREPARATION MATERIALS (Fed. R. Civ. P. 26(f)): This matter is exempt from the requirement that the parties develop a discovery plan concerning issues relating to claims of privilege or of protection as trial-preparation material as it is a proceeding that is exempt from the initial disclosure requirements under Rule 26(a)(1)(E)(iii).

COMPLETION OF DISCOVERY: March 20, 2008

INTERROGATORIES: A maximum of 25 interrogatories by each party to any other party. Responses due 30 days after service unless otherwise agreed to pursuant to Fed. R. Civ. P. 29.

REQUESTS FOR ADMISSION: A maximum of 25 requests for admission by each party to any other party. Responses due 30 days after service unless otherwise agreed to pursuant to Fed. R. Civ. P. 29.

DEPOSITIONS: A maximum of 10 depositions by Plaintiff and 10 by Defendants.
Each deposition limited to a maximum of 7 hours unless extended by agreement of the parties.

**DATES OF DISCLOSURE OF EXPERTS AND EXPERTS' WRITTEN REPORTS AND
SUPPLEMENTATIONS**

Plaintiff: ~~October~~ ^{December} 1, 2007 Defendant: ~~December~~ ^{January} 1, 2007
Supplementations under Rule 26(e) due February 1, 2008

CHALLENGES TO EXPERT TESTIMONY: March 1, 2008

OTHER ITEMS

JOINDER OF ADDITIONAL PARTIES:

Plaintiff: June 1, 2007 Defendant: July 1, 2007

THIRD-PARTY ACTIONS: None anticipated

AMENDMENT OF PLEADINGS:

Plaintiff: June 1, 2007 Defendant: July 1, 2007

DISPOSITIVE MOTIONS:

To Dismiss: July 27, 2007
For Summary Judgment: January 21, 2008

SETTLEMENT POSSIBILITIES: Unlikely

JOINT STATEMENT RE MEDIATION: Mediation, if any will occur by October 1, 2007,
however, Defendants do not believe that mediation will be useful.

WITNESSES AND EXHIBITS: As set by the clerk's notice of assignment to trial.

TRIAL ESTIMATE: 3 days

TRIAL DATE: Two-week trial period beginning May 20, 2008

PRELIMINARY PRETRIAL CONFERENCE: April 30, 2007

OTHER MATTERS: None at this time.

Respectfully submitted,

Bruce Cattell, et al.

By their attorneys,

KELLY A. AYOTTE
Attorney General

/s/ Laura E. B. Lombardi
Laura E. B. Lombardi (#12821)
Assistant Attorney General
Civil Bureau
New Hampshire Department of Justice
33 Capitol Street
Concord, New Hampshire 03301-6397
(603) 271-3658

Certificate of Service

April 24, 2007

I hereby certify that a copy of the foregoing was mailed this day, postage prepaid, to William Graham, *pro se*.

/s/ Laura E. B. Lombardi
Laura E. B. Lombardi (# 12821)